

ORIGINAL

FILED

MAY 29 2007

CLERK, U.S. DISTRICT COURT

By

Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DALLAS

**MICHAEL MARGOLIES, and
ELAINE MARGOLIES, as trustee
on behalf of the MARGOLIES
FAMILY TRUST,**

Plaintiffs,

V.

DARWIN DEASON,
DOUGLAS R. DEASON, and
DAVID L. NEELY,

Defendants.

CIVIL ACTION NO. 03-CV0572-P

**UNOPPOSED MOTION FOR CONTINUANCE OF DEFENDANTS
DARWIN DEASON AND DOUGLAS R. DEASON**

Defendants Darwin Deason and Douglas R. Deason file this Unopposed Motion for Continuance, and would respectfully show the Court as follows:

1. Pursuant to the Court's Second Amended Scheduling Order signed on May 18, 2007, the Joint Pretrial Order is due by July 13, 2007, a pretrial conference has been scheduled for July 20, 2007, and the case is set for jury trial on August 6, 2007.

2. Defendants' lead counsel, Mr. Steve Sumner has prepaid vacation plans to be in Hawaii between July 30, 2007 and August 11, 2007 to attend his niece's wedding in Maui, Hawaii from July 30 to August 2, 2007 and to celebrate his 38th wedding anniversary in Kona, Hawaii from August 2 to August 11, 2007. Mr. Sumner is not scheduled to return to Dallas until Saturday, August 11, 2007 and his first work day will be Monday, August 13, 2007. (*See*, Affidavit of Steve Sumner attached as Exhibit "1".)

3. Defendants submitted their Joint Status Report on January 31, 2007. Mr. Sumner did

not know his niece was to be married in Hawaii at that time. He had not made his plans to go to Hawaii and could not have known to include his vacation plans in the Joint Status Report.

4. Upon receipt of confirmation for Mr. Sumner's vacation plans, Defendants' counsel contacted the Clerk for the Northern District of Texas, Dallas Division and was informed that vacation letters were no longer accepted and that any scheduling issue would need to be addressed in a motion for continuance should it become necessary; therefore, Mr. Sumner did not submit a vacation letter to notify the court of his vacation plans.

5. By January 31, 2007, Defendants' co-counsel, Mr. David Pace did know his vacation plans and, as stated in the Joint Status Report filed on January 31, 2007, Mr. David Pace will be out of the country on a prepaid vacation with his teenage daughters between June 25, 2007 and July 16, 2007. Although, Mr. Sumner is lead counsel, and will be so at trial, Mr. Pace has assisted with the preparation of the case to date, and consequently, his participation in the preparation of the Joint Pretrial Order and preparation for trial would be beneficial to the Defendants' case. As the Honorable Court can see above, Mr. Pace will be out of the country until July 16, 2007 and the Joint Pre Trial Order is due on July 13, 2007.

6. For the reasons stated above, Defendants would herein respectfully request that the current trial setting and pretrial deadlines be continued for thirty to sixty days.

7. Counsel for Defendants, Mr. Steve Sumner, spoke with counsel for Plaintiffs, Mr. David Browde, who stated that Plaintiffs do not oppose the above Motion for Continuance. Counsel for Defendants has also conferred with counsel for Mr. David L. Neely, Mr. Steven Wilcox, who stated that Mr. Neely does not oppose the above Motion for Continuance.

8. This motion for continuance is not sought for the purposes of delay, but rather that

justice may be served.

WHEREFORE, PREMISES CONSIDERED, Defendants request the Court grant their Unopposed Motion for Continuance, and reset this case for trial at the Court's next available date 30 days following the currently scheduled August 6, 2007 trial setting.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Steve Sumner', is written over a horizontal line.


Steve Sumner
State Bar No. 19508500
David H. Pace
State Bar No. 15392950
Andrew Jee
State Bar No. 24047532

Sumner, Schick & Pace
3838 Oak Lawn Avenue, Suite 400
Dallas, Texas 75219
Tel.: (214) 965-9229
Fax.: (214) 965-9215

ATTORNEYS FOR DEFENDANTS
DARWIN DEASON AND DOUGLAS DEASON


CERTIFICATE OF CONFERENCE

I hereby certify that I have conducted a conference with counsel for all parties regarding the matters presented in this Motion, and no parties oppose the relief requested in this Motion.


Steve Sumner

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing motion was served upon all counsel of record in this cause on the 24th day of May, 2007.


Steve Sumner

4. On January 31, 2007, Defendants submitted a Joint Status Report. Had I known that I would have vacation plans that might conflict with the Court's scheduling order, I would have included my vacation plans in the Joint Status Report.

5. In January 2007, I was not aware that my niece planned to be married in Maui, Hawaii on August 1, 2007. In March, 2007, I learned of my niece's plans to be married in Hawaii. My wife and I made the decision to attend the wedding and we decided to also celebrate our 38th wedding anniversary on August 2, 2007 in Hawaii. As my American Airlines' itinerary reflects, as Exhibit A, I made our flight reservations on March 26, 2007. The itinerary also reflects our schedule to leave Dallas Fort Worth on July 30, 2007 to Maui, Hawaii. On August 2, 2007, we will fly to Kona, Hawaii to celebrate our anniversary and will return from Kona to Dallas on August 11, 2007. My first work day will be August 13, 2007.

6. I further attach, as Exhibit B, our hotel reservations in Maui, Hawaii at the Wailea Beach Marriot Resort which shows our reservations from July 30, 2007 to August 2, 2007 and, secondly, I attach as Exhibit C, our reservations to stay at the Four Seasons Resort Hualalai on the island of Hawaii. As is further shown on the itinerary, I was required to pay a substantial deposit of \$3,192, and I have since done so.

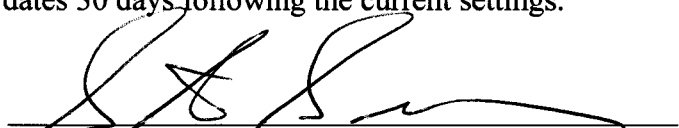
6. At the end of March, when my vacation plans were confirmed and finalized, I knew of no scheduling conflicts with any of my pending cases. In the past, I have submitted vacation letters to all the respective courts in order to notify the courts of my lack of availability during my vacation period; consequently, I instructed my paralegal to check websites and contact the Clerk's office for the Northern District of Texas to find out the policies and procedures for notifying the courts of my vacation plans. We were informed that vacation letters are "no longer accepted in the Northern District of Texas" and that, if there was a conflict, we were to file a motion for continuance. Consequently, because my plans for my vacation were not known or

confirmed until the end of March, and our Joint Status Report had been submitted at the end of January, and since vacation letters are no longer accepted by the courts in the Northern District of Texas, I was unable to notify the Court of my vacation plans prior to the Court's Second Amended Scheduling Order.

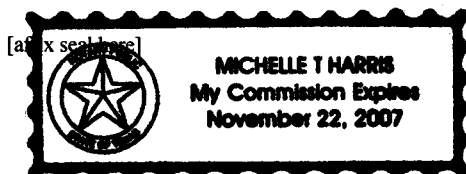
7. On May 18, 2007, The Court issued its Second Amended Scheduling Order which requires the Joint Pretrial Order to be due on July 13, 2007, a pretrial conference is scheduled for July 20, 2007, and the case is set for a jury trial on August 6, 2007. It was upon learning of the conflict between my vacation plans, and the trial setting, that precipitated this motion for continuance.

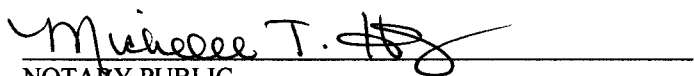
8. Mr. David Pace is my law partner and co-counsel in this case. In January of 2007, he did know of his vacation plans to take his two teenage daughters to Europe, and he did notify the Court of his plans in our Joint Status Report filed on January 31, 2007. As he pointed out in the Joint Status Report he will be out of the country from June 25, 2007 through July 16, 2007. Under the current Second Amended Scheduling Order, the Joint Pretrial Order is due on July 13, 2007. Mr. Pace has assisted me in the preparation of the case and his assistance is necessary in the preparation of the Joint Pretrial Order.

9. For the above reasons only, I herein request that the Joint Pretrial Order, as well as the trial setting, be continued to available dates 30 days following the current settings.


Steve Sumner


SUBSCRIBED AND SWORN TO BEFORE ME this 24th day of May 2007, to certify which witness my hand and official seal.




NOTARY PUBLIC –
IN AND FOR THE STATE OF TEXAS

Michelle Harris

From: American Airlines@aa.com [notify@aa.globalnotifications.com]
Sent: Monday, March 26, 2007 8:11 PM
To: Steve Sumner
Subject: E-Ticket Confirmation


American Airlines
AA.com

Electronic Itinerary And Receipt Confirmation
Reservations Award Booking View My Miles Fare Sales & Offers




☐ **Date of Issue: 26MAR07**
Steve Sumner:





Thank you for choosing American Airlines / American Eagle, a member of the oneworld™ Alliance. Below are your itinerary and receipt for the ticket(s) purchased. Please print and retain this document for use throughout your trip.

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You may check in and obtain your boarding pass for U.S. domestic electronic tickets within 24 hours of your flight time online at AA.com by using www.aa.com/checkin or at a Self-Service Check-In machine at the airport. Check-in options may be found at www.aa.com/options.

You must present a government-issue photo ID and either your boarding pass or a priority verification card at the security screening checkpoint.

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3/27/2007

EXHIBIT

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A

Record Locator: HBEYQD

**Itinerary**

Carrier	Flight Number	Departing		Arriving		Booking Code
		City	Date & Time	City	Time	
American Airlines	7	DALLAS FT WORTH	MON 30JUL 12:10 PM	KAHULUI MAUI	3:10 PM	F
	Steve Sumner		FF#: C002300 PLT	First CI	Seat 5H	Lunch/Snack
American Airlines	246	KONA	FRI 10AUG 10:45 PM	LOS ANGELES	6:45 AM	F
	Steve Sumner		FF#: C002300 PLT	First CI	Seat 3A	Snack
American Airlines	1418	LOS ANGELES	SAT 11AUG 7:30 AM	DALLAS FT WORTH	12:40 PM	F
	Steve Sumner		FF#: C002300 PLT	First CI	Seat 3A	Breakfast

Receipt

PASSENGER	TICKET NUMBER	FARE-USD	TAX	TICKET TOTAL
STEVE SUMNER	0012131945873	0	7.50	7.50
ADDITIONAL SERVICES		CURRENCY	AMOUNT	
Telephone Ticketing Service		USD	30.00	
Payment Type: AAdvantage Certificate, Master Card XXXXXXXXXXXX9147				Total: \$37.50

Additional Services are subject to credit card approval at time of ticketing. Additional Services may appear on multiple accompanied documents as a matter of reference.

Electronic tickets are NOT TRANSFERABLE. Tickets with nonrestrictive fares are valid for one year from original date of issue. If you have questions regarding our refund policy, please visit www.aa.com/refunds.

To change your reservation, please call 1-800-433-7300 and refer to your record locator.

Check-in times will vary by departure location. In order to determine the time you need to check-in at the airport, please visit www.aa.com/airportexpectations.

If you are traveling internationally, please ensure that you have the proper documentation. All necessary travel documents for the countries being visited must be presented at airport check-in. Check with the consulate of these countries to determine the documents required. Additional information can be found at [International Travel](#).

A summary of Terms and Conditions of Travel is available by selecting the Conditions of Carriage button below.

Conditions Of
Carriage

Special
Assistance

Flight
Check-In

Flight Status
Notification

Our
Lowest Fare
Guarantee Only at AA.com

member of oneworld

We know why you fly
American Airlines
AA.com




This e-mail address is non-returnable and does not accommodate replies.
If you have a customer service issue, please [Contact AA](#).

NRID: 4842153527442620090947100

3/27/2007

Michelle Harris

From: American Airlines@aa.com [notify@aa.globalnotifications.com]
Sent: Monday, March 26, 2007 8:11 PM
To: Steve Sumner
Subject: E-Ticket Confirmation


American Airlines
AA.com

Itinerary And Receipt Confirmation

Reservations | Award Booking | View My Miles | Fare Sales & Offers

☐ **Date of Issue: 26MAR07**




Steve Sumner:

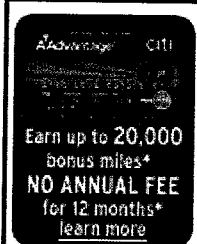
Thank you for choosing American Airlines / American Eagle, a member of the **oneworld™** Alliance. Below are your itinerary and receipt for the ticket(s) purchased. Please print and retain this document for use throughout your trip.

Record Locator: HBEYQD


You may check in and obtain your boarding pass for U.S. domestic electronic tickets within 24 hours of your flight time online at AA.com by using www.aa.com/checkin or at a Self-Service Check-In machine at the airport. Check-in options may be found at www.aa.com/options.

You must present a government-issue photo ID and either your boarding pass or a priority verification card at the security screening checkpoint.


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AVIS



Find a Hotel on AA.com



Cruise Deals on AA.com



3/27/2007

Record Locator: HBEYQD

**Itinerary**

Carrier	Flight Number	Departing		Arriving		Booking Code
		City	Date & Time	City	Time	
American Airlines	7	DALLAS FT WORTH	MON 30JUL 12:10 PM	KAHULUI MAUI	3:10 PM	F
	Nancy Sumner		First Cl		Seat 5J	Lunch/Snack
American Airlines	246	KONA	FRI 10AUG 10:45 PM	LOS ANGELES	6:45 AM	F
	Nancy Sumner		First Cl		Seat 3B	Snack
American Airlines	1418	LOS ANGELES	SAT 11AUG 7:30 AM	DALLAS FT WORTH	12:40 PM	F
	Nancy Sumner		First Cl		Seat 3B	Breakfast

Receipt

PASSENGER	TICKET NUMBER	FARE-USD	TAX	TICKET TOTAL
NANCY SUMNER	0012131945882	0	7.50	7.50
ADDITIONAL SERVICES		CURRENCY	AMOUNT	
Telephone Ticketing Service		USD	30.00	
Payment Type: AAdvantage Certificate, Master Card XXXXXXXXXXXXX9147				Total: \$37.50

Additional Services are subject to credit card approval at time of ticketing. Additional Services may appear on multiple accompanied documents as a matter of reference.

Electronic tickets are NOT TRANSFERABLE. Tickets with nonrestrictive fares are valid for one year from original date of issue. If you have questions regarding our refund policy, please visit www.aa.com/refunds.

To change your reservation, please call 1-800-433-7300 and refer to your record locator.

Check-in times will vary by departure location. In order to determine the time you need to check-in at the airport, please visit www.aa.com/airportexpectations.

If you are traveling internationally, please ensure that you have the proper documentation. All necessary travel documents for the countries being visited must be presented at airport check-in. Check with the consulate of these countries to determine the documents required. Additional information can be found at [International Travel](#).

A summary of Terms and Conditions of Travel is available by selecting the Conditions of Carriage button below.

Conditions Of
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Assistance

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Check-In

Flight Status
Notification

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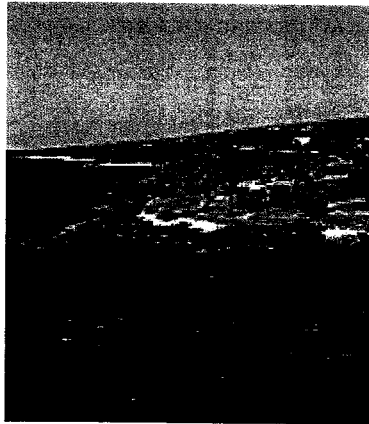
This e-mail address is non-returnable and does not accommodate replies.
If you have a customer service issue, please [Contact AA](#).

NRID: 4842153527442620091170600

3/27/2007

Michelle Harris

From: Marriott Rewards [MARRIOTTREWARDS2@MARRIOTT.M0.NET]
Sent: Monday, March 26, 2007 6:44 PM
To: Steve Sumner
Subject: Wailea Beach Marriott Resort & Spa Reward Reservation Confirmation # 85864696



Wailea Beach Marriott Resort & Spa >>
Confirmation number:
85864696

3700 Wailea Alanui
Wailea - Maui, HI 96753
USA
Phone: 1-808-879--1922
Fax: 1-808-874--7888



Maps & nearby airports >>
More hotel information >>

Dear STEVE SUMNER,
We are delighted to confirm your reservation using your **Marriott Reward Points**. Below please find details for your room reservation and reward confirmation.

Arrival Confirmation

Confirmation number: 85864696

Check-in: Mon, July 30, 2007
Check-out: Thu, August 02, 2007

Alert: As of January 23, 2007, passports will be required for air and sea travel to/from the United States and Canada, Mexico, Bermuda, and the Caribbean. The requirement extends to land border no later than June 9, 2009. Get details >>

Make a new reservation >>

Modify/Cancel reward reservation: To modify or cancel your reward reservation please call 1-800-MARRIOTT in the USA and Canada or contact your local Marriott Rewards Office.

Exception: If your order includes a mileage reward, once processed they cannot be modified or canceled.

Room Information

Guests in room: 2
Name: STEVE SUMNER
Marriott Rewards number:
324891571 SILVER
MEMBER
Number of rooms: 1
Room type: Deluxe
Oceanfront-Full view of
Guarantee method:
Credit Card guarantee

Special request:
1 King Bed
Resort Fee Applies
Non-Commissionable Rate

Cancellation policy:
Cancellation permitted
- up to 3 days before arrival

Please Note: All Marriott hotels in the

City Guides

Get insider information about
Wailea - Maui >>

Marriott Rewards®

View your account >>
Search member specials >>

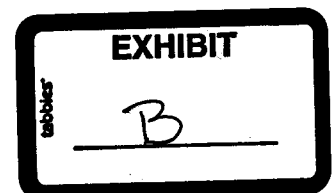
What's New?

Marriott's Look No FurtherSM
Best Rate Guarantee >>

Elite Membership Benefits:
More Richly Rewarding >>

Plan an Event, Earn Rewards
>>

3/27/2007



American Express Card USA and Canada, including guest rooms, restaurants, and public spaces, are now 100% smoke free. Learn more >>

Reward/Rate Information

Rate(s) quoted in: Marriott Rewards points
Total points redeemed: 135,000 points
Reward certificate number and description:
XXXX6062
MARRIOTT HOTEL - A37 3 NIGHT ANYTIME & BREAKFAST FOR TWO-CATEGORY 7

Mon, July 30, 2007

Rate(s) quoted in: US Dollars
Room rate: **300.00 per night**
Plus tax when applicable
Rate program: Rewards Anytime Awards Upgrade

Additional Reward Information

For standard or stay anytime hotel reward

e-certificates: For this reservation using Marriott Rewards points no paper certificate is required at the time of check-in. All you need to do is arrive for your stay. You may however, print this as confirmation of your upcoming redemption reservation.

Hotel reward with a paid upgrade: Please remember that there is a per night charge for your room upgrade in addition to the Marriott Rewards points you redeemed for your stay.

Reservation confirmed: Monday, March 26, 2007 23:43 GMT

Hotel Reward Terms & Conditions>>

Questions? For fastest service, do not reply to this email, but do contact us at this email link.

Promotional email unsubscribe

Periodically, Marriott Rewards sends email about your account balance and membership status, member exclusive specials, and other program information that may be of interest to you. If you prefer not to receive these promotional emails, you may unsubscribe here.

You can unsubscribe by regular mail, too. Send requests to the address below. Include your name, Marriott Rewards number and email address. Allow 10 business days for processing.

Guest Services - Unsubscribe
310 Bearcat Drive
Salt Lake City, UT 84115-2544 USA

Please note: If you unsubscribe from promotional email we continue to send important, time-sensitive, transactional Marriott messages - like confirmation email - when you make a reservation, use Marriott Rewards points, etc.

Marriott does not share email addresses with third parties for their use.

Confirmation authenticity

We're sending you this confirmation notice electronically for your convenience. Marriott keeps an official record of all electronic reservations. We honor our official record only and will disregard any alterations to this confirmation that may have been made after we sent it to you.

Your privacy is important to us. For full details please visit our Internet Privacy Statement.

3/27/2007

Michelle Harris

From: Reservations [reservations.kon@fourseasons.com]
Sent: Wednesday, May 23, 2007 12:17 PM
To: Steve Sumner
Subject: Your Reservation for Arrival: 08/02/07 - Confirmation No: 505390



FOUR SEASONS RESORT
Hualalai at Historic Hāi'upulahu

Guest Reservation Confirmation

Welcome to Hualalai

Mr. and Mrs. Steve Sumner
 3838 Oak Lawn Ave Ste 400
 Dallas TX 75219
 USA



Dear Mr. and Mrs. Sumner,

Thank you for selecting the **Four Seasons Resort Hualalai** for your upcoming visit. Please take a moment to review the following details:

Guest Name	Mr. and Mrs. Steve Sumner
Arrival Date	Thursday, August 2, 2007
Arrival Flight	Please email us your Arrival Time
Departure Date	Friday, August 10, 2007
Departure Flight	Please email us your Departure Time
Number of Nights	8
Room Type	Ocean Front Guest Room
Room Rate	\$ 1064.00 USD plus taxes
	<small>All rates are per night and subject to 11.416% tax, which includes occupancy and some state taxes.</small>
Number of Adults	2 Adults
Number of Children	0
Method of Guarantee	MC *****19147 Exp Date: 01/09
Deposit Received	\$3192.00
Confirmation Number	505390
Confirmed Requests:	Non Smoking, King Bed
Additional Requests	Kings Pond Crescent, High Floor requested
	<small>We will do our best to meet your additional requests but please understand that these are not guaranteed</small>

The package includes Accommodation and a daily breakfast buffet for two at Pahu i'a restaurant or one of our complete breakfast for two through through In-Room Dining (tax and gratuity included).

Your reservation is guaranteed. Should it be necessary to cancel or amend this reservation, please notify the Resort at least 28 days prior to the date of arrival. Cancellation or No show of the entire reservation within the cancellation period will result in the forfeiture of the entire deposit. A reduction of confirmed room nights or a complete date change within the cancellation period is subject to a penalty up to the amount of three nights room rate. Early departures are assessed a fee equal to one night's room rate.

5/23/2007

EXHIBIT

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Please note our check-in time is 3:00 pm and check-out time is 12:00 noon. We will try to accommodate your special requests and preferences, however, we can only guarantee a specific room category. Room locations cannot be guaranteed.

In accordance with Hawaii State Law, Four Seasons Resort Hualalai offers a smoke-free resort stay. All guest rooms, guest room lanai (patios/terraces), restaurants, lounges, pool, and other Public areas will now be Smoke-Free.

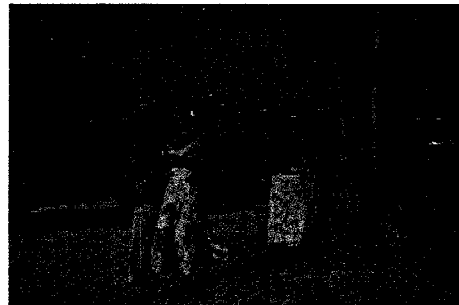
Should you wish for us to arrange your transfer by taxi van, sedan, SUV or Limousine to or from the airport to our Resort, please [email us](#) and we will be delighted to take care of all your details. Please be advised that a 24-hour cancellation policy is applicable to all transportation request.

We look forward to welcoming you back to our Resort. Please do not hesitate to call our Reservations Department toll free (US/Canada) at 1 (888) 340-5662, 1 (808) 325-8000, or [email us](#) if we may be of further assistance.

Aloha,
Uilani Schieber
Reservations Agent

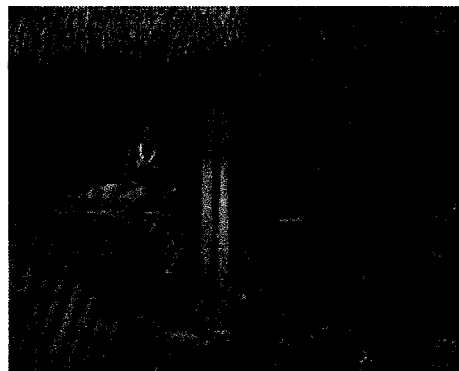
DINING

The Resort's signature beachfront Pahu i'a (aquarium) restaurant serves Contemporary Pacific Cuisine. Beach Tree Bar & Grill offers grilled favorites in a casual atmosphere. On Saturdays, enjoy Surf, Sand, & Stars - a barbecue buffet on the beach - complete with star gazing and s'more-making. Wednesday night features Italian specialties. The Hualalai Grille by Alan Wong features the latest creations in Hawai'i Regional Cuisine. Ask about our Romantic Dinner on the Beach and Family Dinner on the Beach options



SPA & FITNESS

Voted #1 Resort Spa by the readers of *Travel + Leisure* and *Conde Nast Traveler*, Hualalai Sports Club & Spa offers a selection of massage and body treatments, wellness programs, cardio-vascular equipment, exercise classes, steam and sauna, cold plunge pool, climbing wall, and weight and aerobics facilities. Outdoor massage hale (huts) surrounded by trickling waterfalls bring the "outside in," allowing nature to play a role in the relaxation and healing process. Nearby is Hualalai Tennis Club, an eight-court facility with Rebound Ace surfaced courts, four of which are lit for evening play.



GOLF

Golfers in search of the perfect blend of nature and challenge have found their niche at Hualalai Golf Club. Set against an exhilarating natural backdrop, the 18-hole signature Jack Nicklaus course is the first in Hawai'i to be designated a PGA TOUR facility and plays host to the annual PGA TOUR Champions Tour MasterCard Championship through 2008.

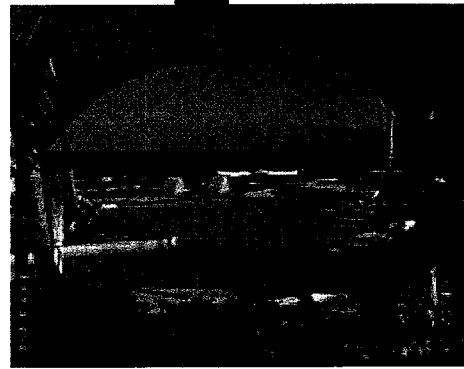


POOLS

Our Resort features five distinct swimming pools - Sea Shell pool, a free-form infinity edged pool with adjacent sand-bottomed kids pool; Beach Tree pool, a traditional rectangular pool of multi-hued blue tiles surrounded by a wooden deck; Palm Grove, an adults-only oval pool; the spa's lap pool; and King's Pond. Historic anchialine pools once used for aquaculture inspired King's Pond, a 2.5 million gallon lava rock snorkeling "aquarium" is carved out of ancient rock formations and home to more than 4,000 tropical fish including three Spotted Eagle

5/23/2007

Rays.



*Warm trade winds stir cool canopies of monkey pod, and the azure ocean races up against natural white sand and ink-black lava, as ancient as the islands- **Four Seasons Resort Hualalai** - celebrating 10 fabulous years on Hawaii's Big Island.*

Four Seasons Resort Hualalai

100 Ka'upulehu Drive

Kona, Hawai'i 96740

Telephone : 1 (808) 325 8000 Fax : 1 (808) 325 8100

e-mail : reservations.kon@fourseasons.com www.fourseasons.com/hualalai

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